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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,771	02/05/2002	Charles Eldering	T742-10	7576

27832 7590 09/10/2004

EXPANSE NETWORKS, INC.  
6206 KELLERS CHURCH ROAD  
PIPERSVILLE, PA 18947

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/068,771

Applicant(s)

ELDERING ET AL.

Examiner

Son P Huynh

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 108-193.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 2. NOTE: Amendments to the claims such as "wherein the specific transactions include purchase transactions, and wherein the purchase transactions are related to at least some subset of product type, products, brands, size, price, quality, and time" in claims 108, 137, 149, 172, 186, 190 change the scope of the claims and require further consideration.

Regarding independent claims 154, 166, 170, Applicant argues none of the cited references disclose or suggest an alternative advertisement that is a shortened version of the targeted advertisement being presented when the subscriber fast forward or skips a targeted advertisement. This argument is respectfully traversed.

Hite discloses the channels with default preemptable or conditionally preemptable commercials include appropriate CID code (col. 6, lines 40-59). The default commercial can be substituted by another ad (col. 7, lines 28-30). Hite further discloses the user changes the channel to another channel during commercial (col. 8, lines 1-17). Furthermore, as used to reject claim 74 in the non-final Office Action issued on 06/19/2003, Hite (US 6,002,393) discloses the same commercial is simultaneously placed on all networks. If the viewer changes channel to another channel with a preemptable commercial, the commercial is uninterrupted even though the channel indicator changes and indicates the new channel (col. 5, lines 50-64). However, Hite does not specifically disclose alternative advertisement is a shortened version of the targeted advertisement. Logan teaches alternative advertisement (e.g. music without the announcement or condensed version) is a shortened version of the targeted advertisement (e.g. music with announcement or full version) - see col. 29, lines 15-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks and Hite to use the teaching as taught by Logan in order to provide highlighted data of a program to the viewer thereby reduce time to view the program.

A shortened version of content is also disclosed by Sezan (U.S 6,236,395), lines 25-35).

For reasons given above, rejection on the claims is maintained as discussed in the Final Office Action.

The examiner has been unable to obtain a copy of the "Anonymous, Protest under 37 CFR 1.291 (a); 2/13/04" and "Claria Website, www. Claria.com; 4/5/04" publications, and so they have not be considered. Applicant is required to provide a copy for consideration as to the merits..



VIVEK SRIVASTAVA  
PRIMARY EXAMINER